

# STAFF REPORT



ITEM NO. 13  
CITY OF OCEANSIDE

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DATE: March 4, 2015  
TO: Honorable Mayor and City Councilmembers  
FROM: Library Department  
SUBJECT: **APPROVAL OF AN AGREEMENT WITH BIBLIOTHECA, LLC IN THE AMOUNT OF \$92,395 FOR AN RFID-BASED INVENTORY MANAGEMENT AND CASH ACCEPTANCE SYSTEM**

## **SYNOPSIS**

Staff recommends that the City Council approve an agreement with Bibliotheca, LLC, of Norcross, GA in the amount of \$92,395 for a Radio Frequency Identification (RFID) based system of hardware and software to facilitate inventory management and cash acceptance, and authorize the City Manager to execute the agreement.

## **BACKGROUND**

The Library acquired first-generation RFID readers, self-check machines and security gates in 2007 in order to reduce the labor associated with manual circulation processes and to mitigate the potential for input errors. These systems used hardware and software proprietary to Checkpoint Systems, a company that exited the library market in 2008. Since that time replacement parts have become increasingly scarce as the machines themselves have become less reliable.

Self-service checkout has become more of a cultural norm, and the current machines are at their highest levels of historical use. At the same time, the City has implemented more systematic cash-handling procedures and the need to integrate compliant payments into the service model most citizens prefer has become apparent.

On May 7, 2014 the City Council approved a budget appropriation in the amount of \$85,000 to the Library Department from Unassigned General Funds to upgrade the cash management system.

## **ANALYSIS**

An RFP to replace the existing infrastructure and to allow for payment was issued in July of 2014. The major requirements for this RFP were interoperability with other

vendors, compatibility with the City's existing Information Technologies infrastructure, intuitive end-user operation and comprehensive payment options offered in a manner compatible with City policy and practice. Four vendors responded and Bibliotheca was selected.

Bibliotheca is the largest company that exclusively provides RFID-based automation solutions to libraries. The proposed equipment will allow citizens to check out library materials and pay fines and fees via cash or credit card in a Payment Card Industry Data Security Standard (PCI DSS) compliant manner consistent with the City's cash handling standards. Current California users of Bibliotheca equipment include the Huntington Beach Library and the Santa Monica Public Library.

### **FISCAL IMPACT**

The total cost of this project is \$92,395 which includes two years of maintenance and support. \$85,000 will come from the Support Services business unit 350357101.5330 and the additional \$7,395 from Support Services business unit 350357101.5320. The current budget is \$149,390, therefore sufficient funds are available. The funding source is the 101 General Fund. The remaining three years of the support contract for the self-check machines will cost approximately \$6,500 annually starting in 2017 and will be budgeted for in the Library's Maintenance and Operations budget. This support contract will be significantly less than we currently pay for our support contract; this will save the City \$69,716 over five years.

### **INSURANCE REQUIREMENT**

The City's standard insurance requirement will be met.

### **COMMISSION OR COMMITTEE REPORTS**

At its meeting on November 24, 2014, the Library Board of Trustees approved the Bibliotheca agreement.

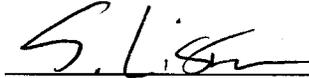
### **CITY ATTORNEY'S ANALYSIS**

The referenced documents have been reviewed by the City Attorney and approved as to form.

**RECOMMENDATION**

Staff recommends that the City Council approve an agreement with Bibliotheca, LLC, of Norcross, GA in the amount of \$92,395 for a Radio Frequency Identification (RFID) based system of hardware and software to facilitate inventory management and cash acceptance, and authorize the City Manager to execute the agreement.

PREPARED BY:

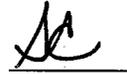
  
\_\_\_\_\_  
Samuel Liston  
Library Technology Analyst

SUBMITTED BY:

  
\_\_\_\_\_  
Michelle Skaggs-Lawrence  
Interim City Manager

REVIEWED BY:

Sherri Cosby, Library Director

  
\_\_\_\_\_

Jane McPherson, Interim Financial Services Director

  
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Yukari Krause Brown, Information Technologies Manager

  
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Attachments:  
Sales Agreement



## **Bibliotheca & Oceanside Public Library Sales Agreement**

Effective: March 4th, 2015

CONFIDENTIAL, Oceanside Public Library and Bibliotheca use only

### Sales Agreement

**THIS AGREEMENT** is made and entered into this **4th day of March, 2015**, by **Bibliotheca, LLC**, a corporation in the State of Delaware, USA, with offices at 3169 Holcomb Bridge Rd., Ste. 200, Norcross, Georgia 30071 (hereinafter referred to as "Bibliotheca") and **Oceanside Public Library**, located at 330 North Coast Hwy., Oceanside, California 92054 (hereinafter referred to as "Customer").

### **RECITALS**

**WHEREAS**, Customer desires to implement Radio Frequency Identification (RFID) systems on its premises, and;

**WHEREAS**, Bibliotheca is willing to provide such products and services that together comprise the system(s) listed above and is willing to provide such products and services pursuant to all the terms and conditions in the Agreement;

**NOW THEREFORE**, in consideration of the mutual covenants of the parties, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Bibliotheca and Customer have agreed and do hereby enter into this Agreement according to the provisions set forth herein:

**WITNESSETH:** In the event of conflicting provisions, all documents shall be construed according to the following priorities:

1. Any properly executed amendment or change order to this contract (most recent with first priority), and
2. This contract, and
3. Any attachments included with this contract.

### **SCOPE OF WORK**

Bibliotheca will provide the Products/Services at the prices noted in Exhibit 1, to include all software and hardware, shipping, installation, and training. Customer is responsible for any SIP2 licenses (as applicable) and/or for all licenses and permits required for the execution of the work, such as construction beyond the scope of services detailed here. The Library will designate a contact person(s) in order to coordinate with Bibliotheca representatives on all technical aspects and implementation of the system. Changes and/or revisions to any tasks, services, locations or allocation of services and/or products will be decided jointly by the Customer and Bibliotheca. Changes may be made for various reasons, including, but not limited to: accommodation of library programs and events, delayed implementations and/or opening days, various holidays, and schedule changes. Otherwise, Bibliotheca will strive to adhere to Customer's timeline.

Upon execution of the Agreement, Bibliotheca will order and ship to Customer – with agreed upon delivery dates – two dual aisle security gates, three RFID staff stations, four countertop kiosks, two freestanding kiosks with card and cash capabilities, plus all applicable software, including smartadmin™ remote monitoring solution. This will be followed by installation and training by Bibliotheca technicians in line with Customer's preferred dates and times as much as is possible. Training will be provided to staff as well as to the administrators of the system. Established courses are available as are additional training segments required by the Customer. Upon Go-Live, the one year system warranty is activated as outlined in Exhibit 2.

## **TERM AND TERMINATION**

### **Term**

The Effective Date of commencement of this Agreement shall be the date indicated above. The Term of this Agreement shall begin on the Effective Date and shall extend for the length of the term outlined below, unless terminated earlier under one of the termination provisions contained in this Agreement.

The initial term of this agreement shall be not less than five (5) years commencing on the Effective Date, with the first year warranty commencing on the Go Live date. Go Live Date means, with respect to Bibliotheca Software license orders, the date on which the Software is available for operational use for normal daily business, including performing core functions for which it was intended. Maintenance and support shall be paid in 12-month installments in advance and shall auto-renew on an annual basis of the Go Live date.

Subsequent years of maintenance and support and subscriptions fees are to be paid annually in advance on the anniversary of the Go Live date. Service and Maintenance auto-renew annually after the initial five (5) year term on the Go Live date unless 60 days prior to termination notification is received in writing to [accounts-us@bibliotheca.com](mailto:accounts-us@bibliotheca.com). Following the first year of System operation, Maintenance and Support, and subscription fees will be subject to annual increases. Any discounts that may be listed on the quote will be applied to the final invoice.

### **Termination**

- a. This Agreement may be terminated by Customer upon ninety (90) days written notice to Bibliotheca should Bibliotheca fail to perform in accordance with all the terms of this Agreement.
- b. Regardless of reason for termination, Customer is responsible for payment for all products and services delivered according to the terms and conditions of this Agreement up until the date of termination of this Agreement.

## **DUTIES OF BIBLIOTHECA**

1. Bibliotheca agrees to provide the products and services (hereinafter collectively referred to as the "Work") as listed in its quotation (Exhibit 1).
2. Except where explicitly noted and agreed to by the Customer upon receipt of proper waivers, Bibliotheca will comply with all local laws, ordinances, and regulations bearing on the performance of the Work.
3. Bibliotheca shall enforce good order and discipline among its employees and subcontractors, if any, and shall keep work areas reasonably free from waste materials and rubbish resulting from its operations.
4. Bibliotheca shall deliver products and perform its services as expeditiously as is consistent with professional skill and care and the orderly progress of the Work.
5. Bibliotheca will compensate all company employees and subcontractors, if used, for all work performed in the execution of the project.
6. Bibliotheca will have the authority to act on behalf of the Customer only to the extent provided in this Agreement unless otherwise modified by written instrument.

7. Bibliotheca will supply Customer with written invoices according to the payment schedule specified in the Agreement or, if not specified, following shipment of products to the Customer. Unless otherwise stated and agreed to in writing, Bibliotheca is not responsible for the collection or payment of any duties, excise, sales, use property, retailers, occupation, business, or similar tax. The amount of any such taxes which are payable in accordance with the provisions of any statute or rules, regulations or decision of any taxing authority, will be paid by the Customer.
8. Bibliotheca agrees that title to all Work covered by an invoice for payment will pass to the Customer upon receipt of such payment.
9. Bibliotheca warrants products in accordance with the warranty attached to this Agreement (Exhibit 2).
10. Bibliotheca agrees to support and maintain products during the first and second years of operation in accordance with document entitled Annual Maintenance and Support for Bibliotheca Products (Exhibit 3).
11. Following the second year, Bibliotheca agrees to continue to support and maintain products supplied under this Agreement for the period(s) specified in the Product Maintenance and Lifespan Policy (Exhibit 4), on a year by year basis, contingent upon the Customer's payment in advance for such support and maintenance.
12. Bibliotheca represents that in the performance of the work, duties, and obligations assumed by it under this Agreement that it is acting and performing as an independent contractor and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or associate of the Customer.
13. Bibliotheca agrees to indemnify and hold harmless Customer from all claims and suits for loss of or damage to property, including loss of the use thereof, or injuries including death to persons, and from all judgments recovered therefore, and from all expense in defending said claims or suits, including court costs, attorney fees and other expenses, caused by an act or omission of Bibliotheca and/or its subcontractors, their respective agents, servants and employees working on the project and not caused by the fault or negligence of the Customer.
14. Without limiting its liability under this Agreement, Bibliotheca will maintain at its expense during the life of this Agreement Workman's Compensation insurance as mandated by law and comprehensive General Liability insurance in amounts no less than:

Bodily Injury Each Person - \$1,000,000  
Bodily Injury Each Occurrence - \$2,000,000  
Property Damage Each Occurrence - \$1,000,000

Customer will be named as an additional insured and noted as such on each policy.

#### **DUTIES OF CUSTOMER**

1. Customer will inspect all products immediately upon delivery, noting damage to external packaging and/or contents on the delivery receipt or bill of lading. Customer will immediately notify Bibliotheca of such damage. Customer understands that failure to immediately report damage may result in the inability to file claims with the shipper or insurance companies. Damages not covered as a result of the Customer's failure to examine or report are the full responsibility of the Customer.

2. Customer will issue purchase orders to Bibliotheca in writing for the products and services listed in Exhibit 1, noting desired delivery dates that will not be earlier than sixty days following receipt of the purchase order by Bibliotheca.
3. Unless noted otherwise on the purchase order, Customer will be prepared to receive products from the date of its purchase order. The specific date for delivery and commencement of installation shall be agreed upon in consultation between the Customer and Bibliotheca. Should Customer, due to delays in construction or for any other reason, not be prepared to accept delivery on or before the stated desired delivery date on the purchase order, Bibliotheca will delay without penalty the shipment of product for up to two weeks following that date as long as no cost-incurring changes are required in the Bibliotheca technician's installation schedule.

If, after two weeks following the stated desired delivery date, Customer is still not ready to accept delivery, Bibliotheca will invoice Customer according to the percentages below and delay shipment of the products on condition that the Customer remit payments as if shipment and installation had taken place at the latest possible dates that fall within this two week period: 35% of the total contract seven days following the date of the delivery specified on the purchase order and 15% fourteen days following the date of delivery specified on the purchase order. In all cases, Customer will be fully responsible for all costs incurred by Bibliotheca as a result of a change in the Bibliotheca technician's installation schedule.

Furthermore, as Bibliotheca will be required to store the equipment until Customer accepts delivery, Customer will be charged 0.5% of the purchase price of the system and/or products each month until system and/or products are shipped and accepted by Customer.

4. Customer will accept delivery of products delivered to its truck high dock during normal business hours. If Customer does not have a truck high dock or can accept deliveries only during specified hours, it must note these and any other special delivery requirements on its purchase order. The absence of a truck high dock and the presence of special delivery requirements may result in increased delivery costs, for which the Customer will be fully responsible.
5. Customer will remit payment in U.S. Dollars to Bibliotheca in no more than 30 days following the date of invoice. Interest will accrue on the amount due at the rate of two percent (2%) per month for each full calendar month or part thereof during which such amount shall be outstanding, such interest to commence to accrue on the fifteenth (15<sup>th</sup>) day after such amount is due and payable. If this interest rate exceeds the maximum interest rate permitted by law, then the interest payable shall be at such maximum permissible rate.
6. Payments for products/services are due within thirty days of invoice receipt.
7. Support and maintenance is invoiced prior to the start of the contract period and is due within thirty days of invoice.
8. If Customer claims exemption from any taxes imposed by any taxing authority, Customer will save Bibliotheca harmless from any such tax, together with any interest, fines, or penalties thereon, which may at any time be assessed against it by reason of the fact that such Work or portion thereof is held to be taxable by the taxing authority. In the event that the Customer is exempt from such taxes or should Customer elect to pay such taxes directly to the taxing authority, then Customer shall provide Bibliotheca with a valid tax exemption certificate or similar document in form satisfactory to Bibliotheca.

9. Customer is responsible for supplying materials, equipment, and services as described in Exhibit 1 and other documents that have been provided to the Customer relating to the work proposed.
10. Customer is responsible for security and paying for all licenses and permits required for the execution of the work.
11. Customer will designate a primary and secondary contact person for the purpose of coordinating with Bibliotheca representatives all technical aspects and implementation of the system(s).
12. Individuals designated above will promptly provide to Bibliotheca all information needed by Bibliotheca for implementation of the system.
13. Customer warrants that the project is located on real property owned by the Customer and that access to such real property will be furnished to Bibliotheca at such times and on such dates as Bibliotheca may reasonably require in connection with the execution and completion of the Work. Customers will provide a clear path for access to and from the installation site for personnel and equipment. Customer will ensure that not later than the scheduled start of installation date, the installation site is free and clear, that all civil work and necessary removal or modifications of existing equipment or buildings is concluded, and that all necessary Customer provided infrastructure, including but not limited to electrical and network connections, is in place according to Bibliotheca specifications. Customer will be fully responsible for all costs associated with the failure of the Customer to meet these requirements. These costs include, but are not limited to, additional work performed by Bibliotheca to prepare the site, additional time required for installation and training, and the additional costs associated with required travel.
14. Customer understands that the proper performance of the system depends upon a thorough understanding and implementation of the installation and operating instructions provided by Bibliotheca. Customer is responsible for ensuring that all staff, volunteers and others who perform services at the Customer's behest are fully trained in the operation of the system components with which they are working.
15. Customer will immediately report all system problems to Bibliotheca.
16. At Bibliotheca's request, Customer will generate system reports as may be needed by Bibliotheca and, if requested, maintain a log detailing all problems experienced with the system.
17. Customer will not modify Bibliotheca hardware or software without first consulting Bibliotheca.
18. Customer agrees to permit Bibliotheca reasonable remote access to support the System as demonstrated in Exhibit 1.
19. Customer will maintain the confidentiality of all information, be it in written, unwritten, or any other form, provided it by Bibliotheca. Only such information as may be necessary for Customer's agents to perform their duties shall be shared with such agents.
20. Customer represents that Bibliotheca software is the intellectual property of Bibliotheca and is protected by law, including copyright laws and international treaties. Copies of software may not be made without the expressed written consent of a Bibliotheca representative authorized to legally obligate the company.

21. Customer shall take all reasonable steps to protect Bibliotheca's intellectual property rights.

### **MISCELLANEOUS**

1. Force Majeure. The parties to this Agreement will not be liable for any delay or failure to perform their obligations if that failure or delay is due to any cause or condition beyond the control of that party and, in particular, without limitation, any failure, damage or loss due to fire, flood, exposure or any act of God, industrial disturbance, failure of electrical telecommunications networks, acts of vandalism, sabotage, civil services, war, changes in legislation or regulations of any government or governmental agency, refusal or revocation of any license or consent by the government of any authority.
2. Limitation of Liability. The liability of Bibliotheca, its agents, employees, subcontractors and supplies with respect to any claims arising out of the performance or non-performance of obligations under the Agreement, or the design, manufacture, sales, delivery, installation or use of the Work or materials or the condition of other services hereunder irrespective of the theory upon which any claim may be based, including, without limitation, breach of the Agreement, breach of warranty or tort (including negligence), indemnity, strict liability or otherwise (i) shall in no event include consequential, indirect, special or similar damages including, but not limited to, loss of profits or revenue, or loss of business, and Customer hereby irrevocably waives any right it may have to any damages in excess of actual and incidental and (ii) except with respect to indemnity claims for personal injury (including death) or damage to property of third parties, shall in no event exceed in the aggregate 100% of the Purchase Price or the scope and limits of insurance required to be maintained under the terms of the Agreement, whichever is less. The limitation of liability shall prevail over any conflicting or inconsistent provisions contained in the Agreement except where such conflicting or inconsistent provisions provide a more restrictive remedy.
3. Indemnification by Customer. Customer agrees to indemnify, defend (at its own expense with counsel satisfactory to Bibliotheca) and hold Bibliotheca harmless from any and all claims demand, liabilities, causes of action, suits, costs and expenses of any kind or nature (including attorney's fees) for loss or damage which suffered by Bibliotheca as a result of injury to persons (including death) and property arising from, (i) removal or modification to Bibliotheca-furnished safety features, (ii) the disregard of Bibliotheca-furnished user safety instructions, (iii) any portion of the Work which includes Customer's existing Work or Work furnished by Customer, (iv) improper use of the Work, (v) any information, representation, reports or data furnished or prepared by Customer or (vi) Customer's failure to properly instruct employees regarding the proper use and maintenance of the Work.
4. Change orders. Customer is fully responsible for any and all costs that are incurred as a result of changes initiated by Customer to this Agreement, to any other contract signed between Bibliotheca and the Customer related to the Work, to any Purchase Order issued to Bibliotheca by the Customer related to the Work, and to any instructions provided to Bibliotheca by the Customer related to the Work.
5. Assignment. The provisions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assignees of the parties hereto. A party to this Agreement will not sell, transfer, assign, license, franchise or otherwise part with possession or mortgage, charge or encumber any right or obligation under this Agreement without the proposed assigned agreeing in writing with the non-assigning party to observe and perform the terms,

conditions and restrictions on the part of the assigning party to this Agreement whether express or implied as if the proposed assignee was an original contracting party to this Agreement.

6. Severability. Should any court of competent jurisdiction declare any provision of this Agreement invalid, then such provision shall be severed and shall not affect the validity of the remaining provisions of this Agreement.
7. Choice of Law: Venue. The laws of the State of Georgia shall control the validity, construction and effect of this Agreement and also any extensions and/or modifications of it. Any action, suit, or other proceeding concerning this Agreement must be brought and maintained only in a court of competent jurisdiction sitting in Gwinnett County, Georgia.
8. Costs and Expenses. Each party will pay its own costs and expenses in relation to the negotiations leading up to and in relation to the preparation, execution and carrying into effect of this Agreement and all other documents referred to in it. In the event that either party deems it necessary to take legal action to enforce any provisions of this Agreement, in the event that Bibliotheca prevails, the Customer shall pay all expenses of such action including attorney fees and court costs at all stages of litigation.
9. Entire Agreement. The complete understanding between the parties is set out in this Agreement and this Agreement supersedes and voids all prior and contemporaneous understandings, proposals, letters, agreements or conditions expressed or implied, oral or written, except as herein contained. Any amendment, modification, waiver or discharge of any requirement of the Agreement will not be effective unless in writing signed by the parties hereto or by their authorized representatives.
10. Headings. The headings in this Agreement are for convenience and reference and are not intended to define or limit the scope of any provision of this Agreement.
11. Third Parties. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against the parties to this Agreement.
12. Inter-Local Purchase. To the full extent permitted by local, state and federal law, the prices, terms and conditions of this agreement, in part or in whole, may be extended to other similar governmental and non-governmental bodies without restriction and without compensation. The aforementioned bodies may or may not be affiliated with the parties to this agreement through a purchasing cooperative, inter-local participation agreement, consortium or other cooperative agreement designed to extend contractual terms agreed to by any one member to all members of the cooperative group.
13. Access to all Bibliotheca products. As part of this Agreement, Customer may purchase any and all products that are listed in the adjoining Price List (Exhibit 7). Prices shown in the Price List are subject to change and may be based on quantities.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first hereinabove written. Signature below indicates agreement to all written terms in this document and its exhibits:

BIBLIOTHECA, LLC DBA BIBLIOTHECA

OCEANSIDE PUBLIC LIBRARY

Signature: \_\_\_\_\_

Signature: Sherri L. Cosby

Name: Al Coalla  
Title: Chief Executive Officer

Name: Sherri L. Cosby

Date: \_\_\_\_\_

Title: Library Director

Date: 2/24/15

**Exhibit 1: Quotation of Work & Products to Be Provided**

Following this page and forming a part of the Sales Agreement is Bibliotheca's quotation for work to be performed and products to be provided to the Library.

# Customer Official System Quote

*Proprietary & Confidential*

<b>Library Name:</b>	Oceanside Public Library	<b>Name:</b>	David Noll
<b>Contact Name:</b>	Sam Liston	<b>Email:</b>	d.noll@bibliotheca.com
<b>Address:</b>	330 N Coast Highway,	<b>Telephone:</b>	678-336-7980 Ext. 152
<b>City, State, ZIP:</b>	Oceanside, CA 92054	<b>Quote Date:</b>	December 22, 2014
<b>Country:</b>	United States of America	<b>Quote Number:</b>	QUO-11828-Q9R2, Rev: 4

<b>Quote Expiration:</b>	Quote expires ninety (90) days from Quote Date above.	<b>Payment Terms:</b>	
<b>Quote Name:</b>	Oceanside Public Library - RFID Components - 121514		
<b>Quote Details:</b>	Smartserve 1000s Freestanding and Countertops		

Item ID	Description	Category	Quantity	Unit Price	Net Price	Gross Price
SCK000033-001-US	Comprise SmartPay System (Per Terminal) for Freestanding Kiosks	Self-service	2	\$2,495.000	\$1,745.000	\$3,490.000
SCK000147-000-US	Fines & Fees Configuration Fee for smartserve™ Units	Self-service	1	\$895.000	\$895.000	\$895.000
SVC000001-000-US	On-Site Installation and/or Training (per training site)	Services	1	\$5,500.000	\$4,000.000	\$4,000.000
SWR000119-000-US	RFID All Inclusive Software System License	Software	1	\$9,995.000	\$6,575.000	\$6,575.000
SHP000001-000-US	Shipping, Handling, and Administration	Services	1	\$1,300.000	\$1,300.000	\$1,300.000
SWR000004-000-US	smartadmin™ Software (Per Single Connected Device)	Software	8	\$325.000	\$185.000	\$1,480.000
GAT000008-001-US	smartgate™ 400 Dual Aisle Security Gate (Hardware)	Security	2	\$11,395.000	\$8,495.000	\$16,990.000
SCK200020-000-US	smartserve™ 1000 Countertop Self-Checkout Kiosk in White (Hardware)	Self-service	4	\$10,995.000	\$7,995.000	\$31,980.000
SCK100402-001-US	smartserve™ 1000 Coin & Bill Cash Payment	Self-service	2	\$3,495.000	\$2,495.000	\$4,990.000

SCK000014-200-US	smartserve™ 1000 Freestanding Kiosk (Hardware)	Self-Checkout	Self-service	2	\$11,995.000	\$8,870.000	\$17,740.00
STF000017-001-US	smartstation™ 200 Shielded Staff Station (USB) (Hardware)		Staff equipment	3	\$1,450.000	\$985.000	\$2,955.00
						<b>Grand Total</b>	<b>\$92,395.00</b>
						<b>(Less Sales Tax):</b>	

**Additional Details**

All prices including Service and Maintenance do not include any applicable sales tax. If tax exempt, please provide Tax Exempt Certificate.

**Standard Bibliotheca Terms and Conditions Apply**

Prices quoted above include a standard Bibliotheca one year warranty. Refer to Bibliotheca Sales and Maintenance Agreement for additional Terms and Conditions. However, any required SIP configuration or ILS renewal fees are not covered by the Bibliotheca warranty. Please note that there may be an additional charge for electrical work.

Shipping is estimated and calculated using today's rates to one receiving location, unless otherwise noted. Additional shipping charges may apply.

Annual Support and Maintenance costs following the standard Bibliotheca one year warranty period:

- 17% Software Licenses: Percentage of unit price
- 12% Bundled (Hardware with Software) Products: Percentage of unit price
- 8% Hardware Only Components: Percentage of unit price

- Year 1: No charge
- Year 2: No charge
- Year 3: \$5,946.22
- Year 4: \$6,124.60
- Year 5: \$6,308.35

Annual Support and Maintenance Charges automatically increase by 5% per year after the initial first year of paid Annual Support and Maintenance costs. Customer may qualify for savings of 3% for every year, up to five years, of pre-paid annual Support and Maintenance charges. Discount is based on the annual fee of the first year for which support and maintenance is charged (year 3) so that prepayment program also protects customer from yearly pricing escalations.

Manager Approval: \_\_\_\_\_

**Submit Purchase Order by fax to 877-207-3129 or by email to [orders-us@bibliotheca.com](mailto:orders-us@bibliotheca.com).**

Accepted By: \_\_\_\_\_

Accepted Date: \_\_\_\_\_

Customer Purchase Order Number: \_\_\_\_\_

**Exhibit 2: One Year Limited Warranty**

**Bibliotheca warrants that the equipment provided in conjunction with any Bibliotheca developed and supplied system(s) to be free from factory defects for a period of one year from the date of installation.**

This limited warranty does not extend to any Bibliotheca product which, in the sole judgment of Bibliotheca has been subjected to abuse, misuse, neglect, improper installation, or accident, or any damage due to use or misuse produced from integration of the products into any mechanical, electrical, or computer system. Further, any abuse, misuse, neglect, improper installation, accident, enhancement, modification, alteration or change made without Bibliotheca's written consent will invalidate Bibliotheca's Limited Product Warranty.

In the event that it is determined the equipment failure is covered under this warranty, Bibliotheca shall, at its sole option, repair or replace the piece of equipment with functionally equivalent or better equipment and return such repaired or replaced equipment without charge for service or return freight.

This limited warranty, except as to title is in lieu of all other warranties or guarantees, either express or implied, and specifically excludes, without limitation, warranties of merchantability and fitness for a particular purpose under the uniform commercial code, or arising out of custom or conduct. The rights and remedies provided herein are exclusive and in lieu of any other rights or remedies.

In no event shall Bibliotheca be liable for any indirect or consequential damages, incidental damages, damages to person or property, or other damages or expenses due directly or indirectly to the purchased equipment, except as stated in this warranty. In no event shall any liability of Bibliotheca exceed the actual amount paid to Bibliotheca for a specific piece of equipment involved in the incident.

Unless specifically contracted otherwise, warranty service is provided under the terms and conditions of Bibliotheca's standard yearly support and maintenance agreement with the exception of any reference to software updates.

**Exhibit 3: Terms and Conditions of Support and Maintenance**

These Terms and Conditions of Support and Maintenance are evergreen in nature and do not expire. Billing cycle for Support and Maintenance will be on an annual basis beginning with the Go Live Date.

- I. **Coverage.** Bibliotheca will provide Customer support and maintenance services on an annual basis subject to Bibliotheca's Equipment Lifecycle Policy and payment of the annual Product Support and Maintenance Fee. The following services will be provided during the period covered as described below:
  - i. With the exception of consumable supplies (e.g. print ribbons) and parts with specified limited usage life spans (e.g. printer heads), Bibliotheca will repair or replace hardware components unless such failure is caused by Customer, as determined by Bibliotheca in consultation with the Customer.
  - ii. Replacement parts, whether new or refurbished, will be equal to or better than the parts being replaced. Replacement parts will be provided on an exchange basis. End of Support (EOS) for Hardware products is specified in the attached document entitled Bibliotheca Maintenance and Equipment Lifecycle Policy.
  - iii. In the event that the Customer reports material bugs or defects in the Software, Bibliotheca shall use commercially reasonable efforts to correct or replace the Software or provide the services necessary to remedy any programming error attributable to Bibliotheca that significantly affects the functionality of the Software.
  - iv. Bibliotheca shall provide points of contact for Customer to report Product problems, failures, and defects and to request Product changes and enhancements. Only those individuals specifically designated by the Customer shall contact Bibliotheca in regard to such matters and Bibliotheca is not obligated to respond to any other employees except those specifically designated.
  - v. Bibliotheca shall provide the maintenance and support services during the service period by telephone, facsimile, email, modem, on site visit or any other means which it deems appropriate, at its sole discretion, to adequately provide those services.
  - vi. Bibliotheca shall be responsible for outbound shipping costs of products and components covered under this agreement. The Customer is responsible for shipping costs of products and components that are returned to Bibliotheca for replacement or repair.
  - vii. As a part of this agreement, Bibliotheca shall supply Customer any and all updates, improvements, and modifications to the Licensed Programs that Bibliotheca makes available to its licensees generally without charge, provided that Bibliotheca reserves the right to charge separately for new options or new applications that, in the discretion of Bibliotheca, constitute a new software product.
  - viii. Such updates, improvements, and modifications shall be provided to the Customer within the framework of periodic official releases. Software support will be limited to the two most recently distributed releases.
  - ix. Maintenance services to be provided by Bibliotheca under this Agreement do not include:

- i. Correction of errors arising from changes, alterations, additions, or modification by persons other than the employees or agents of Bibliotheca or caused by the operation of the Product other than in accordance with the operating specifications.
  - ii. Correction of errors arising from the fault, neglect, misuse, or omission of the Customer or its servants, agents, contractors, invitees, or any other person whether or not that person is under the control or direction of the Customer.
  - iii. Rectification of errors or defects caused by the incorrect or unauthorized use, modification, revision, variation or translation of the software by the Customer or its servants, agents, contractors, or invitees.
  - iv. Repair of damage arising from the failure or surge of electrical power, fusion, fire, air conditioning malfunction, damage caused in transportation, or any other environmental factor or cause other than a cause arising from normal use of the Product.
  - v. Correction of errors caused by the use of computer programs not licensed by Bibliotheca for use by the Customer.
  - vi. Customer shall be responsible for ILS/LMS-related changes and will bear the responsibility and costs incurred when these changes result in changes to Bibliotheca system configurations.
- II. Assignment of Warranties on Hardware Products. In addition to Bibliotheca's obligations under the Maintenance Agreement, Bibliotheca hereby assigns to the Customer all rights of Bibliotheca under any manufacturer's warranties applicable to Hardware Products purchased under this Agreement to the extent such assignment is permitted under such warranties. Such assignment will be effective upon payment of the Total Purchase Price and all other charges invoiced for the shipment of the Products.

Except as provided hereunder or pursuant to an executed Maintenance Agreement, Bibliotheca shall have no obligation to provide maintenance support or other services for Hardware Products purchased under this Agreement.

- III. Limitation on Services. Notwithstanding the above, in the event that Customer or any third party enhances, modifies, alters, or otherwise makes any change to the Products without the prior express written consent of Bibliotheca, Bibliotheca shall have no obligation whatsoever to provide maintenance or support of such Products at any time after such enhancement, modification, alteration, or change.

Notwithstanding anything herein to the contrary, Bibliotheca's obligation to provide maintenance and support for the Licensed Programs shall extend only to the most recent version and the next most recent version of the Licensed Programs provided to Customer.

- IV. Upgrades. The information technology industry is dynamic and marked by frequent product replacement and upgrades. With respect to hardware and third party software, Customer retains the responsibility for the costs of purchase and installation of said upgrades necessary to maintain the functionality of system.
- V. Customer Obligations. During the term of this Agreement:

- i. Customer shall provide Bibliotheca with sufficient documentation, information, assistance, support, and test time on Customer's computer system to duplicate any reported problems, certify that the problem is with the Products, and certify that the problem has been corrected. Bibliotheca will be provided with remote access to systems to aid the troubleshooting and repair process.
- ii. Customer shall designate specific employees who will be trained in all aspects of the products, including trouble shooting. These, and only these employees, may contact Bibliotheca for matters related to this Agreement.
- iii. Customer shall perform problem definition activities and any remedial or corrective actions as described in the Licensed Programs customer manuals and other system documentation provided to Customer by Bibliotheca prior to seeking assistance from Bibliotheca.
- iv. Customer is responsible for performing scheduled preventative maintenance as per product specifications.
- v. Customer shall provide Bibliotheca's Maintenance personnel with proper and safe access to the equipment and software at all requisite times for the purpose of providing the maintenance services.
- vi. Customer will provide Bibliotheca with at least thirty days written notice of the Customer's intention to move the equipment to a location other than the premises.

**Exhibit 4: Product Maintenance and Lifespan Policy**

The supplied self-service solution will be maintainable throughout the life of the equipment while it has a valid support contract. We recommend investing in a support contract for five years with agreed service level agreement. By investing in a support and maintenance agreement, all parts are replaced and/or repaired free of charge should they become defective during the life of the equipment. This excludes any consumables. Our solutions are based upon industry leading design and the high quality materials we use in our manufacturing processes.

We recommend a practice of powering and shutting down your systems on a daily basis to preserve the operating capabilities of the internal PCs and peripherals. Our systems have been designed with quality components that minimize the risk of failure. We suggest that the system is monitored to ensure that any staff actions, such as replacement of consumables or bin emptying, are carried out regularly as required.

Our recommended remote management solution, smartadmin™, provides staff with extensive capabilities in monitoring and managing aspects of the solution both on the library floor and remotely, as well as collecting detailed transactional information.

**Quality Products**

Our dedication to high quality in manufacture is a contributory factor in Bibliotheca self-service solutions regularly achieving 90% plus self-service statistics for all lending transactions.

**For All Products but Security Gates**

Bibliotheca recommends that for planning purposes the expected lifespan of all hardware products (excluding security pedestals) is six years. After this period, Support will continue to be made available on a contractual year by year basis if this is considered economically viable (based on availability/cost of major components at that time). Bibliotheca's intention is to meet the customer's ongoing requirements and all efforts will be made to affect repairs on said equipment, but results may be limited by availability of parts or inventory. In all cases and to ensure that the customer uses the latest available technology, Bibliotheca allows customers to upgrade their equipment to the current levels at a 35% discount.

**Security Gates**

Bibliotheca recommends that the expected lifespan for security pedestals is eight years. After this period, Support will continue to be made available on a contractual year by year basis if this is considered economically viable (based on availability/cost of major components at that time). Bibliotheca's intention is to meet the customer's ongoing requirements and all efforts will be made to affect repairs on said equipment, but results may be limited by availability of parts or inventory. In all cases and to ensure that the customer uses the latest available technology, Bibliotheca allows customers to upgrade their equipment to the current levels at a 35% discount.

**RFID Tags**

Bibliotheca guarantees its tags for the life of the items to which they are affixed. Should the Library find a tag that is inoperable, Bibliotheca will replace it, free of charge.

**Automated Materials Handling**

Bibliotheca recommends that the expected lifespan of the smartsort™ 100, smartsort™ 200, and smartsort™ 300 is ten years; the smartsort™ 400 is set at eight years. Bibliotheca's trade-in program allows customers to trade smaller sorters toward the purchase of larger ones at any time, with a yearly straight line depreciation of just 15%. For example, if the Library spends \$20,000 on a sorter and in three years elects to trade up to a larger unit, it will receive \$11,000 in credit toward that new purchase.

**Exhibit 5: Software License Agreement**

Bibliotheca, LLC hereby agrees to grant Oceanside Public Library, who agrees to accept the following licensed rights and limitations ("License") for Library's use of Vendor-provided software.

1. **Software:** Software, under the terms and conditions of this License (referenced hereinafter as "Software"), means any of the following components provided to Library by Vendor:
  - i. Any computer programs provided by Vendor, either consisting of a set of instructions, calculations and/or statements loaded in a computer (or a device which incorporates a computer) or recorded on a computer readable medium for loading in a computer;
  - ii. Supportive instructional/reference materials such as: training materials, manuals, on-screen tutorials, and other computer program relevant materials whether on paper or computer readable media ("Documentation"); and
  - iii. Any new release, update, upgrade, enhancement, addition, supplement, modification of a program or additional Vendor Software and/or its Documentation provided by Vendor, subsequent to the initial delivery, that is not licensed by specific reference under a mutually agreed upon separate license agreement.
2. **Grant of License:** Vendor hereby grants Library and Library hereby accepts a non-transferable, non-exclusive license, under applicable copyrights and/or trade secrets, to use Vendor-provided Software only on the specific computer(s) for which it was registered and delivered to Library. All Software (other than Documentation) will be provided by Vendor to Library in machine-readable object code only. Library acknowledges that it does not acquire any rights of title or ownership in the Software (including Documentation) and agrees that all proprietary rights to the Software shall at all times remain with Vendor or its relevant third-party provider.

Library may, for its internal use only, print or otherwise reproduce Vendor-developed Documentation if all included Vendor markings, e.g. trademarks, copyrights and statements of confidentiality, are included on each copy. Library acknowledges and agrees that any third party documentation supplied by Vendor, which is marked as copyrighted and/or confidential, shall not be copied or reproduced in any manner.
3. **Term of License:** This License shall remain in force from the date of delivery and continue until Library ceases all use of the Software or Library's licensed rights are terminated for cause. Library acknowledges and agrees that if this Agreement terminates for any reason, all of Library's licensed rights to the Software (including Documentation) are relinquished and, within five business days thereafter, Library (at Vendor's option) will either deliver to Vendor or destroy the original and all copies of the Software including its Documentation. Upon Vendor's request, Library agrees to certify to Vendor in writing its full compliance with this provision.
4. **Assignment:** This License and any rights granted herein shall not be transferred, sub-licensed or assigned to any third party without the prior written consent of Vendor.
5. **Termination:** If Library neglects or fails to pay the specified license fees, or fails to adhere to any of its obligations hereunder, this license may be immediately terminated by Vendor for cause.
6. **Security and Limitations of License:** Library acknowledges and agrees that:

- i. All Software and upgrades of Software (including its Documentation), which are provided to Library by Vendor, contain proprietary copyrighted, trade secret and/or confidential information of Vendor or its relevant third-party provider;
- ii. Library shall not decrypt, reverse engineer, reverse compile, modify, or create derivative works of the Software;
- iii. Library and its employees shall take all reasonable precautions to safeguard and hold all Software, including upgrades, additions and enhancements, in confidence, at least to the same extent that it protects its own most valuable confidential information;
- iv. If Library violates this License or does not pay the agreed upon licensing fees, Vendor will have all of the rights provided herein and available under law, including the right to injunctive relief;
- v. If any other communication, agreement or purchase order conflicts with, or may affect interpretation of, the understandings set forth herein, this License shall control as the singular expression of licensed rights.

Exhibit 6: Notices

If to Bibliotheca:

Al Coalla, CEO  
Bibliotheca  
3169 Holcomb Bridge Rd., Ste. 200  
Norcross, GA 30071

877-207-3127 ext. 121  
[a.coalla@bibliotheca.com](mailto:a.coalla@bibliotheca.com)

If to Customer:

Sam Liston, Technology Librarian  
Oceanside Public Library  
330 N Coast Hwy.  
Oceanside, CA 92054

760-435-5628  
[sliston@ci.oceanside.ca.us](mailto:sliston@ci.oceanside.ca.us)

**Exhibit 7: Access to All Bibliotheca Products**

Price list of all Bibliotheca products will follow this page and forms a part of this Agreement.

**Exhibit 8: Payment Service Provision (UCP/CreditCall)**

This addendum covers the provision of services to the customer for acceptance of mag stripe credit and debit cards at unattended payment terminals; once signed, it is binding on both parties. The service is provided by CreditCall and managed by Unattended Card Payments, Inc. (128 Broken Putter Way, Las Vegas, NV 89148) as its official distributor.

**Term:** The term is for a minimum of twelve months; thereafter, Customer may cancel with one full calendar months' notice. After this period, no further charges are liable. For example, if Customer canceled within the first twelve months, the full twelve months' cost is liable (minus any monthly payments already received). If cancellation is made on the 10<sup>th</sup> of the month, the agreement ends on the last day of the following month.

**Cards Accepted:** Visa, Mastercard, American Express, Visa Debit, Maestro (subject to codes of practice).

**Charges:**

- Between 1 – 100 terminals: \$19.00 per terminal per month (includes refunds made via WebMIS)
- Between 101 – 250 terminals: \$17.50 per terminal per month (includes refunds made via WebMIS)
- Between 251 – 500 terminals: \$16.50 per terminal per month (includes refunds made via WebMIS)
- Over 500 terminals: \$14.50 per terminal per month (includes refunds made via WebMIS)

**Transaction Limit:** 500 per terminal per month averaged across your estate.

**Refund Charges:** \$2 per refund (manual refunds made by CreditCall).

**Set-Up Charges:** \$285 per merchant ID, this includes unlimited terminals added at set up and one WebMIS log-in.

**Subsequent Terminal Set-Up Charges:** \$15 per terminal where added to an existing Merchant ID capped at \$150 per request.

**Additional WebMIS Log-ins:** \$70 per log-in.

**Payment Terms:** All payments to Unattended Card Payments, Inc. are due within 30 days; delay in receipt of due payments may mean Unattended Card Payments, Inc. will terminate service.

**Changes to Agreement:** Unattended Card Payments, Inc. must provide 60 days' notice to Customer of any change in pricing. Customer may cancel Agreement with 30 days' written notice.

**Notice:** Customer should allow one week for the merchant account to be set up and forty-eight hours for terminals to be added to an existing merchant account.

**Rights:** The Intellectual Property in the service provided shall remain exclusively owned by CreditCall. Neither party may use the other's name, logo, trademark or Intellectual Property without written approval. Both parties will use best endeavors to ensure that nothing is done to bring disrepute to the other party's name.

**Data Protection:** Both parties shall observe and comply with the requirements of Data Protection laws.

**Liabilities/Obligations:** Unattended Card Payments, Inc. shall not be liable to Customer for any economic or goodwill loss, whether sustained by Customer or another person as a result of supplying this service, unless caused by Unattended Card Payments, Inc. or CreditCall's negligent act or omission, in which case our sole liability will be to reprocess the transaction or refund. Customer must not store any element of the card transaction, other than temporarily to process the transaction with the PSP service.

Customer must not encrypt or obscure card numbers, either by masking all digits except the first six and last four numbers, using the last four digits only or by applying a secure one way hashing algorithm, such as SHA-1 paper.

Unattended Card Payments, Inc. will use all reasonable endeavors to provide and maintain the services twenty-four hours every day of the year, but Unattended Card Payments, Inc. shall not be liable for any failure to provide or maintain the Services in such manner where this arises from a technical or other failure of the public system, the bank system or any product or service supplied by Customer or by a third party.

Unattended Card Payments, Inc. does not warrant that the Services, the bank system, or the public system will be fault-free or free of interruptions. Unattended Card Payments, Inc. has the right from time to time to improve or alter the Services as it deems appropriate, provided such changes do not materially change the nature of the Services.

**Service Availability:** Service obligation for each year is 99.5%. Planned outages previously notified to Customer shall not be deemed occurrences of unavailability for the purposes of the service availability obligation. Unattended Card Payments, Inc. will work with Customer to ensure any planned outages are scheduled at low traffic periods.

**Exhibit 9: Payment Service Provision (UCP/CreditCall)**

This addendum covers the provision of services to the customer for acceptance of EMV credit and debit cards at unattended payment terminals; once signed, it is binding on both parties. The service is provided by CreditCall and managed by Unattended Card Payments, Inc. (128 Broken Putter Way, Las Vegas, NV 89148) as its official distributor.

**Term:** The term is for a minimum of twelve months; thereafter, Customer may cancel with one full calendar months' notice. After this period, no further charges are liable. For example, if Customer canceled within the first twelve months, the full twelve months' cost is liable (minus any monthly payments already received). If cancellation is made on the 10<sup>th</sup> of the month, the agreement ends on the last day of the following month.

**Cards Accepted:** Visa, Mastercard, American Express, Visa Debit, Maestro (subject to codes of practice).

**Charges:**

- Between 1 – 100 terminals: \$21.00 per terminal per month (includes refunds made via WebMIS)
- Between 101 – 250 terminals: \$19.50 per terminal per month (includes refunds made via WebMIS)
- Between 251 – 500 terminals: \$18.50 per terminal per month (includes refunds made via WebMIS)
- Over 500 terminals: \$16.50 per terminal per month (includes refunds made via WebMIS)

**Transaction Limit:** 500 per terminal per month averaged across your estate.

**Refund Charges:** \$2 per refund (manual refunds made by CreditCall).

**Set Up charges:** \$285 per merchant ID. This includes unlimited terminals added at set up and one WebMIS log-in.

**Subsequent terminal set up charges:** \$15 per terminal where added to an existing Merchant ID, capped at \$150 per request.

**Additional WebMIS Log-ins:** \$70 per log-in.

**Payment Terms:** All payments to Unattended Card Payments, Inc. are due within 30 days; delay in receipt of due payments may mean Unattended Card Payments, Inc. will terminate service.

**Changes to Agreement:** Unattended Card Payments, Inc. must provide 60 days' notice to Customer of any change in pricing. Customer may cancel Agreement with 30 days' written notice.

**Notice:** Customer should allow one week for the merchant account to be set up and forty-eight hours for terminals to be added to an existing merchant account.

**Rights:** The Intellectual Property in the service provided shall remain exclusively owned by CreditCall. Neither party may use the other's name, logo, trademark or Intellectual Property without written approval. Both parties will use best endeavors to ensure that nothing is done to bring disrepute to the other party's name.

**Data Protection:** Both parties shall observe and comply with the requirements of Data Protection laws.

**Liabilities/Obligations:** Unattended Card Payments, Inc. shall not be liable to Customer for any economic or goodwill loss, whether sustained by Customer or another person as a result of supplying this service, unless caused by Unattended Card Payments, Inc. or CreditCall's negligent act or omission, in which case our sole liability will be to reprocess the transaction or refund. Customer must not store any element of the card transaction, other than temporarily to process the transaction with the PSP service.

Customer must not encrypt or obscure card numbers, either by masking all digits except the first six and last four numbers, using the last four digits only or by applying a secure one way hashing algorithm, such as SHA-1 paper.

Unattended Card Payments, Inc. will use all reasonable endeavors to provide and maintain the services twenty-four hours every day of the year, but Unattended Card Payments, Inc. shall not be liable for any failure to provide or maintain the Services in such manner where this arises from a technical or other failure of the public system, the bank system or any product or service supplied by Customer or by a third party.

Unattended Card Payments, Inc. does not warrant that the Services, the bank system, or the public system will be fault-free or free of interruptions. Unattended Card Payments, Inc. has the right from time to time to improve or alter the Services as it deems appropriate, provided such changes do not materially change the nature of the Services.

**Service Availability:** Service obligation for each year is 99.5%. Planned outages previously notified to Customer shall not be deemed occurrences of unavailability for the purposes of the service availability obligation. Unattended Card Payments, Inc. will work with Customer to ensure any planned outages are scheduled at low traffic periods.